charities, while scientifically sound as far as it goes, is logically defective because it excludes from treatment too large a portion of the actual content of the subject. For municipal pauperism or charity comprises a subject of quite recent development compared with the older historical conditions. It is too much the habit of the times to write and reason about things American much as the English tourist does — as if this country had little in it except a score of cities connected by railroads running through nowhere. Dr. Warner deserves thanks for what he has done in this volume, but he has only touched the vast theme of American charities in a few badly infected spots.

JOHN FRANKLIN CROWELL.

COLUMBIA COLLEGE.

Natural Rights. A Criticism of Some Political and Ethical Conceptions. By DAVID G. RITCHIE, A.M. London, Swan Sonnenschein & Co.; New York, Macmillan & Co., 1895. — xvi, 300 pp.

Professor Ritchie's work conforms very faithfully to the purpose which he says animated its production, namely, "to expose confusions, to set those people thinking who can be induced to think." No more promising field is to be found for the writer whose aim is the exposure of confusions than the literature of "natural rights." Of all the opportunities offered Mr. Ritchie has made excellent use. The spirit in which he takes up his subject is broad and philosophical; his method of treatment is clear and logical; and in his style the lapses from dignity are far less numerous than in some of his earlier writings.

The plan of the work presents, first, a general historical and critical treatment of the theory of natural rights, and second, a detailed discussion of particular natural rights. Under the first head, the history of the theory and the history of the idea of "nature" in law and politics are accurately and suggestively reviewed. The mere colorless narratives are fatal to the creeds which *a priori* thinkers have based upon the terms involved. After what seems a superfluously elaborate chapter on "Rousseau and Rousseauism," and an excellent analysis and classification of the different senses in which the term "nature" appears in philosophy, Professor Ritchie, in answering the question "What determines Rights?" exposes the underlying principle of his own philosophy. He advocates the doctrine of "evolutionary utilitarianism." "Natural rights" he concedes a philosophical sig-

nificance only in the sense of "what ought to be in an ideal society." The test of what ought to be is social, not individual, utility — "account being taken not only of immediate convenience to the existing members of a particular society, but of the future welfare of the society in relation, so far as possible, to the whole of humanity." And in anticipating a very obvious criticism, he adds:

> If it is argued that such an appeal is at least as ambiguous as a mere reference to natural rights, I answer, No: for in appealing to social utility we are appealing to something that can be tested, not merely by the intuitions of an individual mind, but by experience. History is the laboratory of politics. Past experience is indeed a poor substitute for crucial experiments; but we are neglecting our only guide if we do not use it. This means no slavish copying of antique models, but trying to discover, from consequences which followed under past conditions, what consequences are likely to follow under similar or under dissimilar conditions now. [Page 103.]

I am not prepared to say, after a careful study of the chapter under consideration, that Professor Ritchie has laid down a wholly satisfactory foundation for his polemic; I am not sure that he securely bars the way to that conception of the state as an end-in-itself in which such a quantity of dreary discussion is immanent; but I do feel that in the passage quoted, reënforced as it is by many other passages in the book, he is on the firmest ground that a philosopher of politics can occupy.

The second part of the work takes up *seriatim* the rights of life, liberty, property, *etc.*, that have figured as "natural," and illustrates exhaustively the futility of the *a priori* view of them. The relativity of rights is the fundamental principle of the criticism; and of especial effectiveness is the author's exposition that, back of all the individualistic theories about rights anterior to the state, there is an inevitable implication of a degree of social order that only political organization can explain. So, in examining the Kantian and Spencerian formula of justice, which has had such a vogue, Mr. Ritchie says:

> The principle of equal freedom, if taken as the ultimate basis on which the fabric of law and government is to be built up, would either compel a complete abstinence from all action on the part of every individual . . . or it would mean the equal right of every one to do everything in the sense of Hobbes, *i.e.*, the war of all against all. The intermediate meanings, which *seem* to make the principle of equal freedom a plausible account of what justice is, all presuppose an orderly fabric of society in which the rights of individuals are settled for them by a fixed system of law. [Page 147.]

It is unnecessary to follow in detail the discussion of the different "rights." The book is valuable because its whole object and effect is to throw aside vague abstractions and pin debate down to definite, intelligible questions. The problem of toleration, the problem of the liberty of public meeting and association, the problem of the sanctity of contract — all are treated as soluble not by any universal principle of *a priori* right, but by considerations of particular time and particular place, and with reference to the experience of the past. There may be in this method a negation of ultimate philosophy; but the loss of a philosophy incompatible with this treatment of political problems will not be serious.

WM. A. DUNNING.

Cases on Constitutional Law. With notes by JAMES BRADLEY THAYER, LL.D., Weld Professor of Law at Harvard University. Cambridge, Charles W. Sever, 1895. — Two volumes, xxii, 2434 pp.

Not much can be said in review of a law book which is simply a collection of cases, with notes quoted from other books, especially if the selections and quotations are made with excellent judgment and rare discrimination, and are arranged in perfectly logical order. What can be said in commendation of such a book must be said of Professor Thayer's *Cases on Constitutional Law.* The need of such a work has long been felt by the teachers of American constitutional law, and Professor Thayer's collection will be welcomed by them as a most substantial aid. The students of constitutional law in our universities can hardly be expected to possess the original reports of these cases, on account of their great cost. Professor Thayer's book will put the chief cases into the hands of every student at a very moderate expense. In accomplishing this he will have done a very great service, for which all students of constitutional law owe him their grateful acknowledgment.

I have but one fault to find with this otherwise most excellent work. It is the omission of the arguments of counsel. Young students find it extremely difficult, and experienced students do not find it always easy, to distinguish decision from dicta in the opinions of the courts. If it is not known what points were argued, the reader is all the more liable to mistake the points decided. In my own experience as a teacher I find it more satisfactory to have fewer cases, with the arguments of counsel, than more without them. If Professor Thayer would give us three volumes and include the arguments, I think his work would be even more serviceable and more generally used than in its present form.

JOHN W. BURGESS.